IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 145 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAMIR ULLAKHAN MAJFARKHAN

Versus

STATE OF GUJARAT

Appearance:

THROUGH JAIL for Petitioner

MS HARSHA DEVANI, APP, for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/03/2000

ORAL JUDGEMENT

Rule. Ms. Harsha Devani, A.P.P. waives service of rule on behalf of the respondents.

2. Perused the papers of the special criminal application and heard the learned counsel for the

respondents. Only ground given for rejection of the application of the petitioner for furlough leave is that earlier he was absconded for 178 days. This had happened in the year 1994. The counsel for the respondents does not dispute that after that the petitioner was released on furlough leave which became due in the year 1996. He was again released on furlough leave which became due in the year 1998. It is true that these two furlough leaves have been granted to the petitioner under the order of this court but once this court has not considered this absconding of the petitioner to be a serious matter to the extent where he has to be denied further furlough leave, I fail to see any justification in the approach of the authority to make it to be a ground for rejection of the application for furlough leave of the petitioner. The ground given by the authority is wholly arbitrary and perverse and the impugned order cannot be allowed to stand.

3. In the result, this special criminal application succeeds and the same is allowed and the order dated 11th January, 2000 of the Inspector General of Prisons, Gujarat State, Ahmedabad is quashed and set aside and he is directed to consider the matter afresh and pass appropriate order keeping in view the observations made by this court in this judgment as well as the two earlier decisions given in the special criminal applications of the petitioner himself. Rule stand disposed of accordingly with no order as to costs.

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